

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

CARESTREAM HEALTH, INC.,

Plaintiff,

v.

CALIPER LIFE SCIENCES, INC.,

Defendant.

Civil Action No.: 10-cv-381

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Carestream Health, Inc. (“Carestream”), for its complaint against Caliper Life Sciences, Inc. (“Caliper”), alleges as follows:

**THE PARTIES**

1. Carestream is a Delaware corporation with offices at 150 Verona Street, Rochester, New York.
2. Upon information and belief, Caliper is a Delaware corporation with its principal place of business at 68 Elm Street, Hopkinton, Massachusetts, 01748.

**JURISDICTION AND VENUE**

3. This is a civil action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281–285.
4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Caliper does business in Wisconsin, including in this District.

**CLAIM FOR PATENT INFRINGEMENT**

6. Carestream realleges and incorporates by reference the allegations set forth in

paragraphs 1 through 5 above as if fully set forth herein.

7. On June 8, 2010, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,734,325 (the “‘325 Patent”), titled “Apparatus and Method for Multi-Modal Imaging,” a copy of which is attached as Exhibit A. Carestream is the assignee and owner of the ‘325 Patent.

8. In violation of Carestream’s rights under the patent laws of the United States, Caliper has infringed and continues to infringe the ‘325 Patent by using, making, importing, offering for sale, and selling products that embody the invention claimed in the ‘325 Patent, including without limitation its IVIS Lumina XR imaging system (the “Infringing Products”).

9. Caliper also has contributed to and induced the infringement of the ‘325 Patent with respect to the Infringing Products by selling Infringing Products with knowledge that such sales cause others to infringe the ‘325 Patent and with specific intent to encourage others’ infringement of the ‘325 Patent. Such knowledge and intent are manifest in and can be inferred from, among other places, user instructions accompanying the Accused Products.

10. By reason of Caliper’s infringing activities, Carestream has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

11. Caliper’s conduct has also caused, and will continue to cause, Carestream irreparable harm. Caliper’s conduct is likely to continue unless it is enjoined from such conduct by this Court.

12. Caliper is and was aware of the ‘325 Patent, and its infringement of the ‘325 Patent has been and continues to be willful. This case is an exceptional one, and Carestream is entitled to an award of its reasonable attorney fees under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, as a result of the unlawful acts of Caliper as set forth herein, Carestream prays for:

- A. a declaration that Carestream is the owner of the '325 Patent;
  - B. entry of judgment that Caliper has infringed, and continues to infringe, and to contribute to and induce infringement of, the '325 Patent;
  - C. a preliminary and a permanent injunction prohibiting Caliper, and all persons in concert and participation with Caliper, from using, making, importing, offering for sale, and selling IVIS Lumina XR imaging systems or any other products that embody the inventions claimed in the '325 Patent;
  - D. an award of damages adequate to compensate Carestream for Caliper's infringement of the '325 Patent, along with prejudgment interest on any such award;
  - E. an award that trebles the amount of damages assessed against Caliper and in favor of Carestream pursuant to 35 U.S.C. § 284;
  - F. an award of reasonable attorney fees and costs pursuant to 35 U.S.C. § 285;
- and
- G. such other further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38, Carestream hereby demands a jury trial on all issues triable by jury.

Dated: July 9, 2010

Respectfully submitted,

/s/ John A. Bannon

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